



JOHN W. SUTHERS
Attorney General

CYNTHIA H. COFFMAN
Chief Deputy Attorney General

DANIEL D. DOMENICO
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street - 7th Floor
Denver, Colorado 80203
Phone (303) 866-4527
Fax (303) 866-5474

M E M O R A N D U M

March 2, 2011

TO: Mortgage Company

FROM: Colorado Uniform Consumer Credit Code ("UCCC")
Phone: (303) 866-4527
Fax: (303) 866-5474
E-mail: uccc@state.co.us

RE: UCCC Supervised Lender Licensing Requirements

You are being sent this memorandum because you are a mortgage company registered with the Colorado Division of Real Estate (CDRE) by the National Mortgage Licensing System ("NMLS"). That registration does not provide an exemption from the licensing requirements of the Colorado Uniform Consumer Credit Code ("UCCC"). This memorandum will help you determine whether or not your company is conducting supervised lending activities and whether a Colorado UCCC supervised lender license is required for your company.

Please review the information in this memorandum. If your company wishes to apply for a supervised lender license, a license application may be obtained on our website at www.coloradoattorneygeneral.gov/uccc or contact our office at 303-866-4527.

Supervised Loans Secured by Real Estate

A Colorado supervised lender's license is required if the mortgage company is regularly engaged in any of these activities:

- making supervised loans,
- collecting supervised loans the lender previously made, or
- servicing, taking assignment of, or purchasing supervised loans and collecting or enforcing rights arising from the supervised loans.

A supervised loan is a consumer loan with an annual percentage rate greater than 12% per year, or for an adjustable rate loan, has a maximum cap that could exceed 12% per year [UCCC § 5-1-301 (15) & (47)]. However, most first mortgage loans do not require a supervised lender license. Most high-rate junior lien mortgages do require a supervised lender license. This is described in more detail on the next page.

Examples of real estate secured “supervised loans” are as follows:

- First mortgage loans or a refinance of a first mortgage loan in which none of the proceeds are used for acquisition purposes and the APR is greater than 12% or if a variable rate, the cap rate is greater than 12% APR. For example, a first mortgage loan on a home which the consumer owns free and clear and the APR is in excess of the interest rate triggers listed above.
- Junior lien mortgage loans with an APR greater than 12% or if a variable rate, the cap rate is greater than 12% APR.

Licensing Exemptions

No supervised lender’s license is needed:

- if the mortgage company does not regularly engage in supervised lending – less than 5 real estate secured consumer loans in the prior or current calendar year, or makes or brokers more than 1 high-rate high-fee loan subject to the federal Home Ownership and Equity Protection Act (HOEPA) and Regulation Z, section 32 (226 C.F.R. § 32)
- for first mortgage home acquisition loans or refinances of first mortgage home acquisition loans, even if part of the proceeds are used for other purposes, but a license *is* needed for consumer loans with APRs more than 12%, or that could exceed 12% on adjustable rate loans, for non-acquisition, non-refinance purposes secured by a first mortgage
- for mortgage brokers to make supervised loans unless the broker closes the supervised loan in its name, regardless of funding or immediate assignment (except for HOEPA loans, see above)
- to make consumer loans with APRs of 12% or less
- if you are licensed as a Colorado collection agency or Colorado attorney and all supervised loans you take assignment of or collect are in default when obtained
- if the mortgage company is a “supervised financial organization” – a state-chartered or national bank or other institution authorized to make loans *and* take deposits [UCCC § 5-1-301(45)]

These exemptions are statutory but no licensing exemption certificates or letters are issued.

Failure to obtain a required supervised lender’s license or comply with all regulatory requirements may result in legal or disciplinary action including license revocation, injunctions, civil penalties, and forfeiture of excess charges. In addition, the lender may be subject to criminal liability.

Copies of the Colorado UCCC and rules may be obtained from our website at www.coloradoattorneygeneral.gov/uccc.